

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ACS STATE & LOCAL  
SOLUTIONS INC.,

Plaintiff,

v.

EFTCHILDSUPPORT.COM, LLC.

Defendant.

Civil Action No. 1:CV -1-2060

COMPLAINT FOR PATENT  
INFRINGEMENT

(JUDGE KANE)

DEFENDANT'S SUPPLEMENTAL RESPONSES TO  
PLAINTIFF'S INTERROGATORIES NOS. 4-6

Pursuant to Rule 33, Fed. R. Civ. P., Defendant eftchildsupport.com LLC ("EFT") hereby supplements its responses to Plaintiff ACS State & Local Solutions, Inc.'s ("ACS") First Set of Interrogatories Nos. 4-6 as follows.

These responses are based upon the best information presently available to EFT and its counsel, but are made without prejudice to any right of EFT to make additional or modified responses should better or further information subsequently become available to EFT. These responses are also made without prejudice to any right of EFT to offer evidence on its behalf or to object to the relevance, competence, or admissibility on any ground of any evidence offered by ACS for any purpose.

GENERAL OBJECTIONS

EFT objects to these interrogatories to the extent they:

1. Seek information or documents protected by the attorney-client privilege, the attorney work product immunity, or any other privilege or immunity. EFT will exchange with ACS, at a mutually agreeable time, schedules of withheld documents in accordance with appropriate authorities.
2. Are unlimited with respect to time. Subject to its other objections, EFT will respond to each interrogatory by providing information, or producing documents, dated or prepared before ACS filed its complaint in this action, unless otherwise stated.
3. Seek information or the identity of documents not reasonably calculated to lead to the discovery of admissible evidence.
4. Attempt to impose obligations on EFT that are beyond the scope of those imposed under the Federal Rules of Civil Procedure.
5. Call for information in EFT's possession, the disclosure of which is subject to or precluded by restrictions of confidentiality imposed by, or pursuant to an agreement with, a third party.

EFT specifically incorporates each of these General Objections into its specific responses to each of ACS's discovery requests, whether or not each such

General Objection is expressly referred to in EFT's response to a specific discovery request.

EFT's investigations are ongoing. EFT reserves the rights to supplement these responses.

SUPPLEMENTAL RESPONSES

INTERROGATORY NO. 4

With respect to each claim in the patent-in-suit, state whether any patentability, validity, enforceability, or infringement study, search, evaluation, or opinion, oral or written, has been conducted or made by or on behalf of Defendant, and, if so, identify the nature of each such study, search, evaluation, or opinion; identify the persons who made each such study, search, evaluation, or opinion; identify the date and the results or conclusions thereof; identify all persons to whom each such study, search, evaluation, or opinion, or results or conclusions thereof have been communicated; identify each patent, publication, public presentation, public use, sale, offer for sale, alleged prior invention, or any other item of art or prior art referred to in each study, search, evaluation, or opinion; identify all documents comprising or relating to each study, search, evaluation, or opinion.

SUPPLEMENTAL RESPONSE:

Subject to and without waiving the objections stated in its response to this interrogatory, EFT supplements its initial response as follows: EFT identifies the following written opinion of non-infringement regarding all claims in the patent-in-suit:

Noninfringement Study of U.S. Patent No. 6,119,107, dated January 11, 2002 to James A. Bangert of eftchildsupport.com, LLC by Robert S. Beiser, Esq.

The person most knowledgeable on the subject matter of this interrogatory is James A. Bangert, eftchildsupport.com LLC president, 55 W. 22nd Street, Suite 160, Lombard, Illinois 60148, (630) 691-1338, jbangert@eftchildsupport.com.

EFT will produce those non-privileged, responsive documents relating in lieu of identifying them and to the extent that such documents have not previously been produced. However, EFT's investigations of the relevant facts, circumstances and issues are at an early stage. EFT reserves the rights to supplement such production if EFT locates additional documents relating to the subject matter of this interrogatory following its continuing discovery and investigation. EFT further reserves the right to supplement this response based on its continuing investigation.

INTERROGATORY NO. 5

With respect to each of Defendant's methods or systems for child support services, state whether Defendant contends that such method or system is not covered by any claim of the patent-in-suit on a claim-by-claim basis and, if so, state fully and with particularity each recitation set forth in each of the claims of the patent-in-suit that Defendant contends is not present, describe in detail all the reasons why Defendant contends, such method or system does not infringe, and state all facts and identify all documents currently known to Defendant on which it bases each such contention.

SUPPLEMENTAL RESPONSE:

EFT incorporates the general objections herein by reference and further objects to this interrogatory to the extent that it calls for information protected by the attorney-client privilege and attorney work product doctrine. EFT further objects to this interrogatory as premature to the extent that it seeks EFT's contentions at trial. Subject to and without waiving the objections stated in its response to this interrogatory, EFT supplements its response as follows:

EFT does not infringe claim 1 of the '107 patent because the EFT method is not a method of accumulating a payment and processing a disbursement, comprising the steps, performed by a processor of initiating a payment with disbursement information from a payor to a payee through a collector. The EFT

method uses a payment authorization instruction to initiate the payment. Disbursement information is used to establish a payor account on a payment scheduler computer system.

Additionally, the EFT method does not process the disbursement information from the agency to an intermediary as an addendum transaction, as addendum transaction is defined by the '107 patent. The EFT method sends information to the State Disbursement Unit bank via the ACH system, not as a separate addendum transaction.

EFT does not infringe claim 5 of the '107 patent because the EFT system is not a system for accumulating payment and processing a disbursement comprising an initiating component configured to initiate the payment with disbursement information from a payor to a payee through a collector. The EFT system uses a payment authorization instruction to initiate the payment. Disbursement information is used to establish a payor account on a payment scheduler computer system.

Additionally, the EFT system does not process the disbursement information from the agency to an intermediary as an addendum transaction, as addendum transaction is defined by the '107 patent. The EFT system sends information to the State Disbursement Unit bank via the ACH system, not as a separate addendum transaction.

EFT does not infringe claim 9 of the '107 patent because the EFT system and method is not a computer usable medium having computer readable code embodied therein for causing a computer to accumulate a payment and process a disbursement, the computer usable code comprising an initiation module configured to initiate a payment with disbursement information from a payor to a payee through a collector. The EFT method and system uses a payment authorization instruction to initiate the payment. Disbursement information is used to establish a payor account on a payment scheduler computer system.

Additionally, the EFT system and method does not process the disbursement information from the agency to an intermediary as an addendum transaction, as addendum transaction is defined by the '107 patent. The EFT method sends information to the State Disbursement Unit bank via the ACH system, not as a separate addendum transaction.

EFT does not infringe claim 13 of the '107 patent because the EFT method is not a method of processing a payment, comprising the steps performed by a processor of dispatching a credit reflecting the payment from the ACH to an intermediary's bank for the benefit of an intermediary. The EFT method and system does not dispatch a credit to the intermediary's bank as is defined by the '107 patent specification.

EFT does not infringe claim 19 of the '107 patent because the EFT system is not a system for processing a payment comprising a dispatching component configured to dispatch a credit reflecting the payment from the ACH to an intermediary's bank for the benefit of an intermediary. The EFT method and system does not dispatch a credit to the intermediary's bank as is defined by the '107 patent specification.

EFT does not infringe claim 25 of the '107 patent because the EFT system and method is not a computer usable medium having computer readable code embodied therein for causing a computer to process a payment, the computer usable code comprising a dispatching component configured to dispatch a credit reflecting the payment from the ACH to an intermediary's bank for the benefit of an intermediary. The EFT method and system does not dispatch a credit to the intermediary's bank as is defined by the '107 patent specification.

EFT does not infringe claim 26 of the 107 patent because the EFT method is not a method of processing a disbursement, comprising the steps, performed by a computer of receiving at the accumulator agency disbursement transaction information from the state regarding authorization for the disbursement as an addendum transaction.

EFT does not infringe claim 30 of the '107 patent because the EFT system is not a system for processing a disbursement comprising a receiving component



configured to receive at the accumulator agency disbursement transaction information from the state regarding authorization for the disbursement as an addendum transaction.

EFT does not infringe claim 34 of the '107 patent because the EFT system and method is not a computer usable medium having computer readable code embodied therein for causing a computer to process a payment, the computer usable code comprising a receiving module configured to receive at the accumulator agency disbursement transaction information from the state regarding authorization for the disbursement addendum transaction.

EFT does not infringe claim 35 of the '107 patent because the EFT method is not a method of processing a disbursement, comprising the steps, performed by a processor, of receiving at an accumulator agency disbursement transaction information from a state regarding the disbursement as an addendum transaction.

EFT does not infringe claim 53 of the '107 patent because the EFT method and system is not a system for processing a disbursement, comprising a receiving component configured to receive at an accumulator agency disbursement transaction information from a state regarding the disbursement as an addendum transaction.

Whereas, EFT does not infringe any of the independent claims of the patent-in-suit, EFT does not infringe any of the dependent claims of the patent-in-suit.

EFT will produce those non-privileged documents related to this response, to the extent that such documents exist and are in EFT's possession, in lieu of identifying them. EFT's investigations of the relevant facts, circumstances and issues are at an early stage. EFT reserves the right to amend and supplement the foregoing response.

The persons most knowledgeable of the subject matter of this interrogatory are:

- 1) James Bangert, President, eftchildsupport.com LLC, 55 W. 22nd Street, Suite 160, Lombard, Illinois 60148 (630) 691-1338, jbangert@eftchildsupport.com; and
- 2) Timothy O'Brien, Chief Information Officer, eftchildsupport.com LLC, 55 W. 22nd Street, Suite 160, Lombard, Illinois 60148, (630) 691-1338, tobrien@eftchildsupport.com.

INTERROGATORY NO. 6

State fully and with particularity all the facts and legal bases known to Defendant upon which Defendant will base any allegation that the patent-in-suit is invalid or unenforceable under the U.S. patent laws or the Rules and Regulations of the U.S. Patent and Trademark Office, including, without limitation: the legal basis for any such allegation of invalidity or unenforceability; the identity of all

documents relating to any such allegation; the identity of each claim Defendant contends is invalid; the identity of each act or item of art or prior art upon which Defendant relies, including but not limited to each patent, publication, public presentation, public use, sale, offer for sale, alleged prior invention (including all facts relating to the conception and reduction to practice of such alleged invention), or any other act or item of art or prior art; the person or persons most knowledgeable about any such allegation; and an element-by-element comparison between each allegedly invalid claim and each act or item of art or prior art on which Defendant relies.

SUPPLEMENTAL RESPONSE:

EFT incorporates the general objections herein by reference and further objects to this interrogatory to the extent that it calls for information protected by the attorney-client privilege and attorney work product doctrine. EFT further objects to this interrogatory as premature to the extent that it seeks EFT's contentions at trial. Subject to and without waiving the foregoing objections, EFT responds to this interrogatory as follows:

The patent-in-suit is invalid under 35 U.S.C. Section 101 because the described and claimed subject matter is not a new and useful process or machine or a new and useful improvement thereof.

The patent-in-suit is invalid under 35 U.S.C. Section 102 because the claimed subject matter of the patent-in-suit was: known and used by others in this country, or patented or described in a printed publication in this or a foreign country, before the named inventor's purported invention of the claimed subject matter; and/or patented or described in printed publication in this or a foreign country or in public use or on sale in this country more than one year prior to the date of application for the patent-in-suit.

The patent-in-suit is invalid under 35 U.S.C. Section 103 because the differences between the claimed subject matter and the prior art as a whole would have been obvious at the time the invention was purportedly made to a person having ordinary skill in the art to which the claimed subject matter pertains.

The patent-in-suit is invalid under 35 U.S.C. Section 112 because the specification of the patent-in-suit does not contain a written description of the invention, and of the manner and process of making and using it, in full, clear, concise and exact terms to enable one of skill in the relevant art to make and use the invention. Additionally, EFT does not believe that the specification sets forth the best mode contemplated inventor to carry out the claimed invention. Furthermore, the specification does not conclude with claims particularly pointing out and distinctly claiming the subject matter regarded as the invention.

The prior art supporting the foregoing allegations of invalidity include:

U.S. Patent Documents

4823264	Apr., 1989	Deming
5231569	Jul., 1993	Myatt et al.
5265007	Nov., 1993	Barnhard, Jr. et al.
5283829	Feb., 1994	Anderson
5317732	May., 1994	Gerlach, Jr. et al.
5369699	Nov., 1994	Page et al.
5383113	Jan., 1995	Kight et al.
5465206	Nov., 1995	Hilt et al.
5649117	Jul., 1997	Landry
5652786	Jul., 1997	Rogers
5699528	Dec., 1997	Hogan

Other Documents

1. "EDI Top Twenty, Questions and Answers About Electronic Data Interchange," Pamphlet published by Automated Clearing House Association (no date).
2. "ADP PC/Payroll for Windows," published by Automatic Data Processing, Inc. (1997), 04-1008-057 50M.
3. "New Hire Reporting," published by Automatic Data Processing, Inc. (1997), 04-914-067 40M.
4. "Wage Garnishment Processing Service," published by Automatic Data Process, Inc. (1996), 04-1045-086 20M.
5. "Child Support Application Banking Convention: A Guide For Employers & Their Financial Institutions," published by Bankers EDI Council (1996).
6. "1996 ACH Rules," published by National Automated Clearing House Association (1996). Vans (Value-Added Networks), Website at <http://ganges.cs.tcd.ie/4ba2/edi/www.sub--vans.html> (May 30, 1997).
7. Basics of EDI, Chapter 3, Website at <http://pages.prodigy.com/edibooks/edich31.html> (May 30, 1997), David Robert Lambert 1994-96.

8. Board of Governors of the Federal Reserve System/Washington D.C., Website at <http://www.bog.frb.fed.us/> (May 29, 1997).

9. Direct Payment, Website at <http://www.nacha.org/marketing/dpma.htm> (May 29, 1997).

10. The National Automated Clearing House Association, Website at <http://www.nacha.org/nacha/nacha.htm> (May 29, 1997).

11. Colorado Child Support Enforcement, Website at <http://www.state.co.us/gov.sub.--dir/human.sub.--services.sub.--dir/CSE/cseemp.htm> (Jun. 6, 1997).

12. CMi&s U.S. Electronic Commerce, Website at <http://www.creditworthy.com/us/providers/electronic.html> (Jun. 6, 1997).

13. Electronic Commerce Resource Guide, Website at <http://www.premenos.com/Resources/Organization> (May 30, 1997).  
EC/EDI: The Basics, Website at <http://www.sbaonline.sba.gov/gopher/Ecedi/Info/eced5.txt> (Jun. 6, 1997).

EFT's investigations of the relevant facts, circumstances and issues are at an early stage. EFT reserves the right to amend and supplement the forgoing response. EFT will produce responsive documents to the extent such documents are in EFT's possession and have not previously been produced. The persons most knowledgeable about subject matter of this response are:

- 1) James Bangert, President, [eftchildsupport.com](http://eftchildsupport.com) LLC, 55 W. 22nd Street, Suite 160, Lombard, Illinois 60148 (630) 691-1338, [jbangert@eftchildsupport.com](mailto:jbangert@eftchildsupport.com); and

2) Timothy O'Brien, Chief Information Officer, [eftchilddsupport.com](http://eftchilddsupport.com)  
LLC, 55 W. 22nd Street, Suite 160, Lombard, Illinois 60148, (630)  
691-1338, [tobrien@eftchilddsupport.com](mailto:tobrien@eftchilddsupport.com).

Objections by:



Dated: December 17, 2001

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Robert S. Beiser  
Sean S. Swidler  
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Attorneys for Defendant  
EFTCHILDSUPPORT.COM LLC

**VERIFICATION**

I, James Bangert, Chief Operating Officer of efcchildsupport.com LLC, Defendant in the above referenced matter, hereby state that the statements made in the Defendant's Supplemental Response to Plaintiff's Interrogatories Nos. 4-6 are true and correct to the best of my knowledge, information and belief.

Dated: 1/17/02

By: James A. Bangert  
James A. Bangert



IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ACS STATE & LOCAL	)	
SOLUTIONS INC.,	)	Civil Action No. 1:CV -1-2060
	)	
Plaintiff,	)	
	)	
v.	)	COMPLAINT FOR PATENT
	)	INFRINGEMENT
EFTCHILDSUPPORT.COM, LLC.	)	
	)	(JUDGE KANE)
Defendant.	)	

DEFENDANT'S SUPPLEMENTAL RESPONSES TO PLAINTIFF'S  
REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS NO. 2

Defendant eftchilddsupport.com, LLC ("EFT") supplements its responses to Plaintiff ACS State & Local Solutions, Inc.'s ("ACS") Request for Production of Documents and Things No. 2 as follows:

GENERAL OBJECTIONS

EFT objects to each and every instruction and request to the extent it:

1. Imposes obligations on EFT greater than those imposed by operation of law, the United States Supreme Court, the Federal Rules of Civil Procedure or Rules of the United States District Court for the Middle District of Pennsylvania.
2. Seeks information or documents protected by the attorney-client privilege, the attorney work product immunity, or any other privilege or immunity.
3. Is unlimited with respect to time.

4. Seeks information or the identity of documents not reasonably calculated to lead to the discovery of admissible evidence.

5. Seeks information or the identity of documents available to ACS from public sources.

6. Attempts to impose obligations on EFT that differ from those imposed under the Federal Rules of Civil Procedure.

7. Calls for information in EFT's possession, the disclosure of which is subject to or precluded by restrictions of the confidentiality imposed by, or pursuant to an agreement with, a third party.

EFT specifically incorporates each of these General Objections into its specific responses to each of ACS's discovery requests, whether or not each such General Objection is expressly referred to in EFT's response to a specific discovery request.

As used herein, the words "EFT will produce responsive documents", or words to that effect do not constitute a representation that such documents exist, but only that EFT will make, or has made, a good faith effort to search for such documents and, subject to its general and specific objections, will produce any such existing documents within its possession, custody or control at an appropriate time, or in the case of privileged or work product documents, identify such documents on a schedule of withheld documents.

EFT's investigation is ongoing. EFT reserves the right to supplement these responses in accordance with the Federal Rules of Civil Procedure and the Rules of the United States District Court for the Middle District of Pennsylvania.

SPECIFIC OBJECTIONS AND RESPONSES

DOCUMENT REQUEST NO. 2

All documents and things that refer or relate to the patent-in-suit, including but not limited to: legal opinions of counsel and/or claim charts on which the Defendant will or may rely in this litigation that refer or relate to a comparison of any of the claims of the patent-in-suit to Defendant's method or system for child support services, the invalidity and/or Defendant's noninfringement of the patent-in-suit, Defendant's right to design, develop, use, sell, or offer to sell its method or system for child support services, and Defendant's efforts to design around the patent-in-suit; and Defendant's interpretation of the claims of the patent-in-suit and documents and things that support, contradict, refute, or are inconsistent with this action.

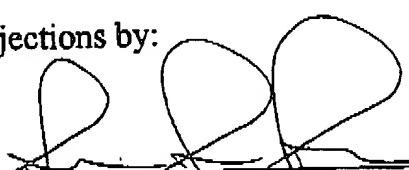
SUPPLEMENTAL RESPONSE:

EFT incorporates the general objections set forth above by reference and further objects to this request to the extent that it calls for information subject to the attorney-client privilege or that constitutes work product. EFT also objects to

this request because ACS bears the burden of proving infringement. Subject to and without waiver of these objections, EFT will produce non-privileged, responsive documents, to the extent that such documents exist and are in the possession of EFT and have not been previously produced.

Objections by:

Dated: December 17, 2001



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Attorneys for Defendant  
EFTCHILDSUPPORT.COM LLC

CERTIFICATE OF SERVICE

I certify that on this 17<sup>th</sup> day of January, 2002, a true and correct copy of the following:

- 1) Defendant's Supplemental Responses To Plaintiff's Interrogatory Nos. 4-6

and

- 2) Defendant's Supplemental Response To Plaintiff's Request for Production of Documents and Things No. 2

was served via First Class Mail, postage prepaid, on:

Christopher P. Isaac, Esq.  
Lionel M. Lavenue, Esq.  
Kristen M. Healey, Esq.  
FINNEGAN HENDERSON FARABOW  
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By: 

One of Defendant's Attorneys